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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,169	06/21/2001	Mark G. Thomas	80-00	6354
7590 Peter V. Radatti CyberSoft, Inc. 1508 Butler Pike Conshohocken, PA 19428-1322		01/12/2007		
			EXAMINER NGUYEN, DUSTIN	
			ART UNIT 2154	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE		DELIVERY MODE
3 MONTHS		01/12/2007		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/886,169

Applicant(s)

THOMAS, MARK G.

Examiner

Dustin Nguyen

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1 – 19 are presented for examination.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/23/2006 has been entered.

#### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 18 is rejected under 35 U.S.C. 101 because claim(s) 18 is directed to an article of manufacturer comprising a computer readable signal bearing medium. The computer readable signal bearing medium does not fall within any of the categories of patentable subject matter set forth in 35 U.S.C. 101.

#### ***Claim Rejections - 35 USC § 102***

Art Unit: 2154

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 5, 10, 14, 15, 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Albrecht [ US Patent No 7,020,895 ].

6. As per claim 1, Albrecht discloses the invention as claimed including a method for processing stored and forwarded code [ i.e. virus scanning in a system where data to be scanned is transferring from an agent to a scanning engine located on a central server ] [ col 1, lines 5-11 ] comprising:

transferring code, from a storage component [ col 4, lines 51-58 ], to a transfer component [ i.e. agent intercepts data which is being transferred through the system ] [ Figure 3; and col 5, lines 2-11 ];

transferring said code, from said transfer component, to a proscribed code scanner [ i.e. the intercepted suspect data is then transferred by the agent to a central server comprising an anti-virus scanning application ] [ Figures 2 and 3; and col 1, lines 38-43 ];

indicating, via said proscribed code scanner to said transfer component, whether said code contains proscribed code; and, without transmitting said code to said transfer component [

Art Unit: 2154

i.e. the result of the virus scan is return from the central server to the agent ] [ Figure 2; Abstract; col 1, lines 42-44; and col 5, lines 65-67 ]; and

transferring said code to at least one secondary storage component based on said indication [ i.e. in the event that no virus has been identified in the file, the agent allows the file transfer to proceed ] [ Figure 3; and col 5, lines 67-col 6, lines 17 ].

7. As per claim 5, Albrecht discloses code comprises email [ col 5, lines 4-12 ].
8. As per claim 10, it is rejected for similar reasons as stated above in claims 1 and 5.
9. As per claim 14, it is rejected for similar reasons as stated above in claim 1. Furthermore, Albrecht discloses transfers said code to either said first or second secondary storage component based upon the presence or absence of proscribed code as indicated by said proscribed code scanner [ i.e. in the event that no virus has been identified and in the event that a virus has been identified ] [ col 5, lines 67-col 6, lines 17 ].
10. As per claim 15, it is rejected for similar reasons as stated above in claim 5.
11. As per claim 17, it is rejected for similar reasons as stated above in claims 1, 5 and 14.

Art Unit: 2154

12. As per claim 18, it is rejected for similar reasons as stated above in claims 1, 5 and 14.

Furthermore, Albrecht discloses storage means in the medium for storage code [ col 4, lines 54-58 ].

13. As per claim 19, it is rejected for similar reasons as stated above in claim 1.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 2-4, 6-9, 11-13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht [ US Patent No 7,020,895 ], in view of Dickinson, III et al. [ US Patent No 6,609,196 ].

16. As per claim 2, Albrecht does not specifically disclose the step of transferring said code from said at least one secondary storage component to a subsequent code transfer component. Dickinson discloses the step of transferring said code from said at least one secondary storage component to a subsequent code transfer component [ i.e. quarantined queue stored message for subsequent retrieval ] [ Figure 7; and col 9, lines 64-col 10, lines 17 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of

Art Unit: 2154

Albrecht and Dickinson because Dickinson's teaching of queues would enable all e-mail messages entering into or originating within an organization can be encrypted or decrypted and filtered in accordance with policies imposed by organization [ Dickinson, col 2, 21-25 ].

17. As per claim 3, Albrecht does not specifically disclose the step of sorting said code prior to transfer to said at least one secondary storage component. Dickinson discloses the step of sorting said code prior to transfer to said at least one secondary storage component [ i.e. filter a message by the priority of the message ] [ col 5, lines 32-48; and col 7, lines 36-38 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Albrecht and Dickinson because Dickinson's teaching of queues would enable all e-mail messages entering into or originating within an organization can be encrypted or decrypted and filtered in accordance with policies imposed by organization [ Dickinson, col 2, 21-25 ].

18. As per claim 4, Dickinson discloses the step of transferring code to at least two secondary storage components, with a first of at least two secondary storage components receiving smaller stored and forwarded code and a second of at least two secondary storage components receiving larger stored and forwarded code [ i.e. queues ] [ col 5, lines 35-43; and col 9, lines 64-col 10, lines 17 ].

19. As per claim 6, it is rejected for similar reasons as stated above in claims 1 and 3.

20. As per claim 7, it is rejected for similar reasons as stated above in claim 2.

Art Unit: 2154

21. As per claims 8 and 9, they are rejected for similar reasons as stated above in claims 4 and 5.

22. As per claim 11, it is rejected for similar reasons as stated above in claims 2 and 5.

23. As per claim 12, it is rejected for similar reasons as stated above in claims 3 and 5.

24. As per claim 13, it is rejected for similar reasons as stated above in claims 3-5.

25. As per claim 16, Albrecht does not specifically disclose sendmail queue. Dickinson discloses sendmail queue [ Figure 7; and col 9, lines 64-col 10, lines 17 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Albrecht and Dickinson because Dickinson's teaching of queues would enable all e-mail messages entering into or originating within an organization can be encrypted or decrypted and filtered in accordance with policies imposed by organization [ Dickinson, col 2, 21-25 ].

26. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).



***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached at (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen

Examiner

Art Unit 2154

